



PREVENTING VIOLENCE
AND DEVELOPING
YOUTH LEADERS

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July 1, 2021

The Honorable Steven Bradford
Chair, Senate Public Safety Committee
State Capitol, Room 2031
Sacramento, CA 95814

RE: AB 124 (Kamlager) - SUPPORT

Dear Senator Bradford,

Youth ALIVE! is pleased to support AB 124 (Kamlager), which will support survivors of violence, including human trafficking, intimate partner violence, and sexual violence, by providing trauma-informed sentencing relief and trial advocacy considerations. Criminal justice procedures need to take into account the full context of a person’s situation and experiences, including age, impacts of trauma, stages of development, and offer a more humane and compassionate response to survivors who have already experienced unimaginable circumstances.

Youth ALIVE! is a nationally recognized community-based organization known for initiating an alliance to treat violence as a public health crisis and developing young leaders in the process. Tasked as Oakland’s anchor organization for violence prevention, intervention, and healing, Youth ALIVE! has maintained a successful track record of implementing evidence-based violence intervention and prevention services. Our decades of experience serving victims of violence and trauma survivors informs our support of Assembly Bill 124

According to the ACLU, nearly 60% of female state prisoners nationwide and as many as 94% of certain female prison populations have a history of physical or sexual abuse before being incarcerated ([The American Civil Liberties Union, “Prison Rape Elimination Act of 2003”](#)). Black women make up 25% of the incarcerated population in California, which when considered alongside the reality that Black women are only 5% of the adult population yet are incarcerated at five times the rate of white women, demonstrates an overrepresentation of Black women in prison ([Public Policy Institute of California, “California’s Prison Population”](#)). Similar disparities exist for other individuals of color, including Latinx, Asian and Pacific Islander, and indigenous communities.

According to the American Academy of Pediatrics, transgender and gender non-conforming people are six times more likely to be sexually assaulted as children and have a greater risk of sexual violence across their lifetimes ([Childhood Gender Nonconformity: A Risk Indicator for Childhood Abuse and Posttraumatic Stress in Youth](#)). Trans and non-binary survivors are vastly overrepresented in prisons. Less

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than 1% of California’s population identifies as transgender, nonbinary, or intersex, yet make up 1% of the prison population.

Despite the body of research showing that the effect of trauma and abuse drives survivors into the juvenile and criminal justice systems, the system itself typically overlooks the context of abuse when determining whether to arrest or charge an individual. Many trafficking survivors are incarcerated for crimes committed to protect themselves from further violence. Numerous studies show that survivors of intimate partner violence and human trafficking are also often criminalized because they were forced or coerced into participating in illegal activities by their abusive partners ([Survived and Punished, “Research Across the Walls: A Guide to Participatory Research Projects and Partnerships to Free Criminalized Survivors”](#)). Additionally, many survivors may be hesitant to disclose their experiences of abuse or exploitation, due to distrust of systems, fear of how an abusive partner may respond, or a belief that they are not a survivor ([Institute of Medicine and National Research Council, *Confronting Commercial Sexual Exploitation and Sex Trafficking of Minors in the United States: A Guide for the Health Care Sector*](#)).

When law enforcement does not identify trauma victims as victims in cases, and instead labels them and treats them as the perpetrators, it compounds the existing trauma instead of healing it. Further, when cases aren’t dismissed or diverted, but instead enhanced with more punitive sentences, a twofold injustice occurs: their abusers are shielded from accountability, and the trauma that is the underlying cause of their behavior is left unaddressed. The choice to punish instead of support sets in motion a cycle of abuse and imprisonment that has harmful consequences for victims of trauma and their families as well as society more broadly ([Human Rights Project for Girls, Georgetown Law Center on Poverty and Inequality, and Ms. Foundation for Women, “The Sexual Abuse to Prison Pipeline: The Girls’ Story”](#)).

Moreover, judges often lack the discretion to dismiss charges, reduce harsh sentences, and strike sentence enhancements to tailor court responses to adequately serve vulnerable populations in the interest of justice. Too often, limited opportunities to present relevant mitigating evidence and limited judicial discretion to make fair and balanced decisions lead to inequitable outcomes for trauma victims.

AB 124 would create just outcomes moving forward, provide full context of the experiences that contributed to a survivor's actions or inactions, and use a more humanizing and trauma-informed response to criminal adjudication. This legislation will:

1. Extend the existing affirmative defense statute, which currently applies to human trafficking survivors, to include survivors of intimate partner violence and sexual violence, and expand the statute’s application beyond non-violent offenses to all offenses;
2. Require prosecutors to consider the impact of violence experienced by the survivor, whether the individual was a youth at the time of the commission of the offense, or whether the individual was a victim of intimate partner violence, sexual violence, or human trafficking during plea negotiations;



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3. Create a presumption that judges should start at the lower term when sentencing a survivor to prison if trauma, age, or victimization contributed to the commission of the offense, while maintaining a judge's discretion to order the middle or high term if the aggravating factors outweigh the mitigating factors;
4. Direct a sentencing judge to consider the impacts of sexual violence, intimate partner violence, human trafficking, childhood trauma, and abuse on a person when deciding whether imposing a discretionary enhancement may be contrary to the interests of justice (i.e. running sentences consecutively versus concurrently);
5. Allow judges to consider whether the survivor's experience of trauma, intimate partner violence, sexual violence, and human trafficking was a contributing factor in the commission of the offense when evaluating a survivor's petition for resentencing; and
6. Expand the vacatur law to allow survivors to petition the court to vacate convictions and expunge arrests for any crime that was the direct result of being a victim of human trafficking, intimate partner violence, or sexual violence.

This is your chance to create legislative change that will help individuals in the system receive much needed sentencing relief and trial advocacy considerations that are relevant to their experiences, age, and developmental levels. Please join alongside the 54 Assemblymembers who voted AYE in support of AB 124.

For these reasons, Youth ALIVE! is pleased to support AB 124 and respectfully requests your "Aye" vote.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anne Marks".

Anne Marks
Executive Director

CC:
Senator Rosilicie Ochoa Bogh, Vice Chair
Senator Sydney Kamlager
Senator Nancy Skinner
Senator Scott D. Wiener